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Mr. Bernard Logan
Clerk of the State Corporation Commission
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Richmond, VA 23219

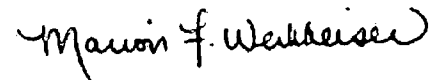
Re: Case No. PUR-2021-00142

Dear Mr. Logan:

Pursuant to the Order for Notice and Comment dated December 9, 2021, please find attached the Direct Testimony of Dr. Elizabeth T. Horton, filed on behalf of respondent Nansemond Indian Nation in the above-captioned matter.

Please contact me if you have any questions. Thank you for your attention to this matter.

Sincerely,



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WITNESS DIRECT TESTIMONY SUMMARY

Witness: Dr. Elizabeth T. Horton

Title: Archaeologist and paleoethnobotanist
Cultural Resources Reviewer, Cultural Heritage Partners

Summary:

Dr. Horton is a cultural resources reviewer employed by Cultural Heritage Partners, a law firm representing the Nansemond Indian Nation ("Nation") before the State Corporation Commission in Case No. PUR-2021-00142.

The purpose of Dr. Horton's testimony is to provide the Commission with information about the Nation's interests along the preferred route and alternatives.

Her testimony first describes the Nation's interest in the project area as a whole. The project goes through the Nation's ancestral lands, and Dr. Horton explains that the Nation's members still live in the same area as their direct ancestors, who occupied the land for thousands of years. The Nation is a subject-matter expert in its own history.

Dr. Horton then explains that the Nation has an interest in certain recorded sites along the preferred route and alternatives. Dr. Horton explains that the Nation is interested in learning more about sites connected to its history and the Nation therefore requests to be consulted and involved in the development of work plans and field methodologies for cultural resource surveys for this project, regardless of the route that is chosen.

The second portion of Dr. Horton's testimony focuses on sites that have not yet been discovered. Because the preferred route and alternative have not been fully surveyed, it is possible that sites, including burials, could be discovered. The Nation therefore supports the adoption of an unanticipated discoveries plan and requests that the Nation be consulted in the development of that plan.

Lastly, Dr. Horton also describes that the Nation prefers Route 1 of the routes presented, because it contains the most mileage along already-disturbed land.

Dr. Horton's background, qualifications, and an explanation of her current role are described on pages 1 and 2 of her testimony.

**DIRECT TESTIMONY
OF
DR. ELIZABETH T. HORTON
CULTURAL RESOURCES REVIEWER WITH CULTURAL HERITAGE PARTNERS
ON BEHALF OF THE NANSEMOND INDIAN NATION
BEFORE THE
STATE CORPORATION COMMISSION OF VIRGINIA
CASE NO. PUR-2021-00142**

1 **Q. Please state your name, employer, and position.**

2 A. My name is Elizabeth Temple Horton. I am a cultural resources reviewer with Cultural
3 Heritage Partners, a law, policy, and strategy firm based in Richmond, VA.

4 **Q. Please describe your academic and professional background.**

5 A. I earned my BA in Anthropology and Religious Studies from Webster University in
6 1996, and my MA and PhD in 2010 from Washington University in St. Louis in
7 Anthropology with a specialization in Archaeology. I am a public archaeologist and
8 paleoethnobotanist with a focus on cultural heritage issues related to the relationships
9 between people and plants as well as communities' ecological knowledge and traditions.
10 I have over two decades of experience in archaeological fieldwork and research. As an
11 archaeologist, I have consulted and collaborated with Tribes and Nations in several states
12 on a wide variety of research, cultural heritage and archaeological site preservation, and
13 educational projects.

14 **Q. Please describe your current position with Cultural Heritage Partners.**

15 A. I assist clients with cultural resources reviews that take place at any stage of a
16 development project. For example, I review archaeological reports prepared as part of
17 project surveys to identify any concerns. I also support clients in deciding whether or not
18 to become involved in the planning or approval processes for a particular project by
19 helping them determine and assess potential project impacts on cultural and historical

resources. In my role, I frequently review project maps and compare that information to sites recorded with the Virginia Department of Historic Resources and other available information, such as published literature and Tribal histories, to determine the potential or expected impacts of a project.

Q. What is the purpose of your testimony in this proceeding?

A. I am testifying as a cultural resources reviewer employed by Cultural Heritage Partners, a law firm representing the Nansemond Indian Nation ("Nation") in this proceeding to approve the Coastal Virginia Offshore Wind Commercial Project and Rider Offshore Wind ("Project"). The Nation is a federally-recognized sovereign tribe headquartered in Suffolk, Virginia. I am testifying to provide the Commission with information regarding the Nation's interests along the preferred route and alternatives, specifically with regard to cultural heritage and conservation.

Q. Please describe how your testimony is organized.

A. My testimony is organized as follows:

II. The Nation's Interest in Recorded Sites

II. Sites Not Yet Discovered

III. Preferred Route and Alternatives

I. THE NATION'S INTEREST IN RECORDED SITES

Q. Please describe the Nation's interest in the Project area.

A. The preferred route and alternatives go through the Nation's ancestral lands. Through Tribal histories, Euro-American written records, and the archaeological record, we can often identify where ancestors of today's Virginia Tribes and Nations lived and the landscapes that were critical to them. This includes not just discrete settlement sites, but

aspects of the landscape that were critical for travel, trade, hunting, fishing, farming and other cultural and economic activities such as rivers. These sites and the landscapes they are on form the ancestral homelands for modern Indian Tribes and Nations. For the Nansemond Indian Nation, they still live in the region their direct ancestors did, 1,000, 3,000, even 10,000 and more, years ago. The sites in their ancestral homeland provide the Nation with an opportunity to learn more about the history of the Nansemond people. The Nation continues to play an active role in conservation and preservation of the landscape that has supported them and their ancestors for thousands of years.

Q. Please describe the Nansemond's interest in recorded sites.

A. Section H of the DEQ supplement is titled Archaeological, Historic, Scenic, Cultural, or Architectural Resources and is included in volume 6 of the application. This section discusses the potential effects to archaeological resources along the various route options. In my review of this information, I have identified five sites in which the Nation has an interest. The sites and which routes could impact those sites are summarized here:

- 44VB0274 (prehistoric artifact scatter, remains of historic farmstead) (previously determined ineligible) [all routes]¹
- 44CS0250 (multicomponent prehistoric camp) [Route 1; Alternative Hybrid Route]²
- 44VB0162 (prehistoric camp and historic period cemetery) [Route 1; Alternative Hybrid Route]³
- 44CS0016 (prehistoric site) [Route 5]⁴
- 44CS0156 (multicomponent historic artifact scatter including a component from colonial 1700s, a period of interest for the Nansemond) [Route 5]⁵

¹ DEQ Supplement, Section H (application vol. 6) at 29, 31, 33, 35.

² *Id.* at 29, 35.

³ *Id.* at 29.

⁴ *Id.* at 33-34.

⁵ *Id.* at 33-34.

I have also identified a sixth site, 44VB0290, from my review of the route maps alongside data from VCRIS, the Commonwealth's Cultural Resources Information System. It appears from my review that 44VB0290 could potentially be in the right-of-way or otherwise impacted along proposed Route 2.

The Nation is in discussions with Virginia Electric and Power Company ("Dominion") regarding these sites, as Dominion is conducting survey work as part of the federal approval processes for the Project. Dominion has provided the Nation with some information regarding the results of surveys that have occurred at some of these sites.

Due to the ongoing exchange of information between the Nation and Dominion, I am not providing detailed testimony about these sites, because the information available to me is changing. While information provided to the Nation on February 24, 2022 indicates that some of the sites may have been destroyed, I am testifying about these sites and the landscape of the region to show that the Nation has a potential interest in sites in this area and should be consulted in any work approved by the Commission. Even if certain of the sites listed here may be destroyed, the basis for consultation remains unchanged, as the project will alter the viewshed, cultural landscapes, and potentially the environmental integrity of the region.

Q. Please describe the Nation's requests regarding these sites.

The Nation requests to be consulted and involved the development of work plans and field methodologies for cultural resources surveys for this Project regardless of the route chosen. I also want to provide an example of why it is important for Dominion to consult with the Nation on surveys in this area. Certain of the sites listed above are Archaic period sites that may date from between about 7000 and 1500 years ago. This period,

1 especially the earliest portions of it between 7000 and 3000 years ago, are not well-
2 understood in Virginia. The Nation therefore has an interest in learning more about these
3 sites going forward and ensuring that any impacts to the sites are avoided or minimized.

4 II. SITES NOT YET DISCOVERED

5 **Q. Please describe the Nation's interest in sites that have not yet been discovered.**

6 A. Because there has not been a full survey of the preferred route and alternatives, it is
7 possible that sites, including burials, could be discovered. In light of the Nation's interest
8 in the route areas described above, the Nation has a potential interest in sites that are
9 discovered later. I understand that Dominion intends to have an unanticipated discoveries
10 plan, which should include input from the Nation. This input is important because Tribes
11 and Nations are subject-matter experts in their own histories. For instance, the Nation
12 may propose culturally appropriate field methodologies in certain areas of the Project,
13 based on information the Nation has about its history.

14 III. PREFERRED ROUTE AND ALTERNATIVES

15 **Q. Please describe the Nation's views on the routes presented in the application.**

16 A. The preferred route, Route 1, contains the most mileage along already-disturbed land.
17 Some sections go along roads and another section aligns with the never-built
18 Southeastern Parkway and Greenbelt. Although Route 1 does contain recorded sites, of
19 the routes set out in the application, Route 1 appears to disturb the least amount of
20 undisturbed land. The Nation therefore prefers this route of the routes presented, although
21 consultation with the Nation on this route is still needed, as sites could nevertheless be
22 discovered and there remains the potential for environmental, viewshed, and cultural
23 landscape impacts.

Some of the other routes would create new disturbance or require new easements, for example, Route 5 would cut through conservation lands along the North Landing River.

In assessing the rights-of-way for the routes, I noted that there were numerous unevaluated Archaic and other later Indigenous sites within a 1-mile buffer of the rights-of-way, especially in the area of Gum Swamp, Indian River, Pocktacy River and North Landing River. When I say Indigenous site, I mean a site that is associated with the peoples indigenous to the area. Here, those people are the ancestors of the Nansemond Indian Nation members alive today.

The potential for the discovery and disturbance of Indigenous sites in any new development in this area is high. Additionally, the routes in question will cross conservation lands and waterways, raising the potential for both environmental and viewshed impacts on the Nation's ancestral homelands. The Nation's preference is to learn more about sites in already-developed areas rather than see new and additional adverse impacts in the form of development through conservation lands and potentially through as of yet unknown and undisturbed archaeological sites.

As I stated above, the Nation, as a subject-matter expert in its own history, requests to be consulted and involved the development of work plans and field methodologies for cultural resources surveys for this Project regardless of the route chosen.

Q. Does this conclude your pre-filed direct testimony?

A. Yes, it does.